

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$962.00 for dates of service, 03/08/02, 03/12/02, 03/13/02, 03/18/02, 03/19/02, 03/26/02, 03/27/02, 04/02/02, 04/10/02, 04/15/02, and 05/14/02, per the updated Table of Disputed Services received on 12/31/02.
- b. The request was received on 07/17/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. Initial TWCC 60
 1. Letter to the Compliance & Practice Division of TWCC, dated 07/07/02
 2. EOB(s)
 3. HCFA(s)-1500
 4. Copy of a Contested Case Hearing determination dated 05/28/02
 - b. Additional documentation requested on 07/31/02 and received on 08/12/02
 1. Position statement
 2. Copy of a Contested Case Hearing determination dated 05/28/02
 3. Medical Records
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60
 - b. Copy of the Requestor's Letter to the Compliance & Practice Division of TWCC, dated 07/07/02
 - c. Copy of Carrier's payment screen showing check number, issue date and amount reimbursed for dates of service in dispute
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.

3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 08/15/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 08/16/02. The response from the insurance carrier was received in the Division on 08/23/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of a Letter Requesting Additional Information is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 08/05/02
"The two reasons brought by the carrier were (1) that the claim is not compensable. Many dates of services were denied with this code. On Math 7th, 2002, TWCC ruled that the claim was a compensable claim. On May 9th, 2002 we did a request for reconsideration. Carrier CHOSE not to respond within 28 day timeframe rule. Thus carrier accepts their first position as 'E' on all those dates. As you can see by TWCC ruling the claim is compensable. Therefore, provider should win EVERY cpt code marked with a 'E.' ... (2) Carrier CHOSE not to respond to our initial HCFA billing requests on many dates of service. Then carrier CHOSE not to respond to the request for reconsideration. This leaves all the remaining dates of services not marked with an 'E' as 'No EOB Received.' TWCC says that if a carrier doesn't respond the provider should take it as a denial of services. However as RULE 133.307 (j)(2) states, ONLY THE REASON GIVEN BEFORE MDR can be considered. NO REASON WAS GIVEN. PROVIDER SHOULD WIN EVERY DATE MARKED WITH 'NO EOB RECEIVED.' This is the same stance SOAH has taken."
2. Respondent: No response statement submitted

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are 03/08/02, 03/12/02, 03/13/02, 03/18/02, 03/19/02, 03/26/02, 03/27/02, 04/02/02, 04/10/02, 04/15/02, and 05/14/02.
2. This decision is being written based on the documentation that was in the file at the time it was assigned to this Medical Dispute Resolution Officer.
3. Per the Requestor's Table of Disputed Services, the Requestor billed the Carrier \$962 for services rendered on the above dates in dispute.
4. Per the Requestor's Table of Disputed Services, the Carrier paid the Requestor \$0.00 for services rendered on the above dates in dispute.

5. The Carrier's EOBs deny reimbursement as "E ENTITLEMENT (NON-COMPENSABLE)"; "UJ9 BY CLINICAL PRACTICE STANDARDS, THIS PROCEDURE IS INCIDENTAL TO THE RELATED PRIMARY PROCEDURE BILLED." The Requestor states they did not receive an EOB for some of the dates of service. Therefore, these dates of service will be reviewed as an "F" denial.
6. Per the Requestor's Table of Disputed Services, the remaining amount in dispute is \$962 for services rendered on the above dates in dispute.
7. The Carrier has submitted their computer print screen showing check numbers, date of issue and payment made to the Requestor for some of the dates in dispute.
8. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
03/12/02 03/26/02 04/02/02 04/02/02 04/10/02 04/15/02	97265 97265 97265 95851 97285 95851	\$43.00 \$43.00 \$43.00 \$36.00 \$43.00 \$36.00	\$0.00 \$0.00 \$0.00 \$0.00 \$0.00 \$0.00	No EOB for all dates	\$43.00 \$43.00 \$43.00 \$36.00 \$43.00 \$36.00	TWCC Rule 133.304(c); MFG; MGR (I) (9) (c); CPT Descriptor	<p>TWCC Rule 133.304 states "The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s)." The Requestor states they did not receive an EOB for these dates of service. Additionally, the Carrier did not submit a response statement to the provider's request for dispute resolution. Therefore, these dates of service will be reviewed as an "F" denial.</p> <p>The Requestor has provided medical documentation to support services billed for all dates of service except 03/12/02. There is no medical documentation for this CPT Code to support services. Reimbursement in the amount of \$201.00 (\$244.00 - \$43.00) is recommended.</p>
03/13/02 03/18/02 03/26/02 03/27/02 03/27/02 04/10/02	97122 97122 97122 97122 97113 97122	\$35.00 \$35.00 \$35.00 \$35.00 \$156.00 \$35.00	\$0.00 \$0.00 \$0.00 \$0.00 \$0.00 \$0.00	E E No EOB No EOB No EOB No EOB	\$35.00/15 mins \$35.00/15 mins \$35.00/15 mins \$35.00/15 mins \$52.00/15 mins \$35.00/15 mins	TWCC Rule 133.304(c); MFG; MGR (I) (9) (b); CPT Descriptor	<p>Recent review of disputes involving one on one CPT Codes by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation.</p> <p>Although the Requestor has submitted a favorable Contested Case Hearing determination, dated 05/28/02, the therapy notes for these dates of service do not support any clinical (mental or physical) reason as to why the patient could not have performed these exercises in a group setting, with supervision, as opposed to one-to-one therapy. The Requestor has failed to submit documentation to support reimbursement in accordance with the CPT Descriptor and MFG.</p> <p>The Carrier payment screen submitted for date of service 03/27/02 shows payment was issued for all services rendered on that date. Therefore, a refund to the Carrier of \$35.00 for CPT Code 97122 and a \$156.00 refund for CPT Code 97113 are recommended.</p>

03/08/02	97250	\$43.00	\$0.00	E	\$43.00	MFG; MGR (I)	The Requestor has submitted a Contested Case Hearing that determines the claimant did sustain a compensable injury on _____. Therefore, reimbursement in the amount of \$215.00 is recommended.
03/13/02	97265	\$43.00	\$0.00	E	\$43.00	(9) (a); CPT	
03/13/02	97260	\$43.00	\$0.00	E	\$43.00	Descriptor	
03/18/02	97265	\$43.00	\$0.00	E	\$43.00		
03/19/02	97265	\$43.00	\$0.00	E	\$43.00		
03/27/02	99213	\$48.00	\$0.00	No EOB	\$48.00	MFG; E/M	The Carrier payment screen submitted for date of service 03/27/02 shows payment was issued on 08/23/02, check number 0313852518 in the amount of \$325.00, for all services rendered on that date. Therefore, no additional reimbursement is recommended.
03/27/02	97265	\$43.00	\$0.00	No EOB	\$43.00	GR; MGR (I)	
03/27/02	97250	\$43.00	\$0.00	No EOB	\$43.00	(9) (a); CPT	
						Descriptor	
05/14/02	95851	\$38.00	\$0.00	UJ9	\$36.00	MFG MGR (I)	Medical documentation submitted indicates this service was rendered by the physician in accordance with the MFG and is not global. Therefore, additional reimbursement for CPT Code 95851 of \$36.00 is recommended.
						(E) (4); CPT	
						Descriptor	
Totals		\$962.00	\$0.00				The Requestor is entitled to reimbursement in the amount of \$261.00 (\$452.00 - \$191.00 refunds = \$261.00).

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$261.00 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 9th day of January 2003.

Denise Terry
 Medical Dispute Resolution Officer
 Medical Review Division
 DT/dt